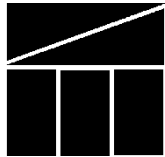


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

24 VAC 30-11 Public Participation Guidelines

Department of Transportation

Town Hall Action/Stage: 5338 / 8696

October 8, 2019

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 795 of the 2012 Acts of the Assembly (Chapter 795),² the Commonwealth Transportation Board (Board) proposes to specify in this regulation that interested persons shall be afforded an opportunity to be accompanied by and represented by counsel or other representative when submitting data, views, and arguments, either orally or in writing, to the agency.

Background

Chapter 795 added to Code of Virginia § 2.2-4007.02. “Public participation guidelines” that persons interested in submitting data, views, and arguments, either orally or in writing, to the agency also be afforded an opportunity to be accompanied by and represented by counsel or other representative.

The current regulation *Public Participation Guidelines* states that: “In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency.” The

¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

² See <http://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0795+hil>

Board proposes to append “and (ii) be accompanied by and represented by counsel or other representative.”

Estimated Benefits and Costs

Since the Code of Virginia already specifies that interested persons shall be afforded an opportunity to be accompanied by and represented by counsel or other representative, the Board’s proposal to add this language to the regulation would not change the law in effect, but would be beneficial in that it would inform interested parties who read this regulation but not the statute of their legal rights concerning representation.

Businesses and Other Entities Affected

The proposed amendment potentially affects all individuals who comment on pending regulatory changes. It would particularly affect those who are interested in being accompanied by and represented by counsel or other representative, and were not previously aware of this right. The proposal does not produce cost.

Localities³ Affected⁴

The proposed amendment applies statewide. No locality would be particularly affected. The proposed amendment does not introduce costs for local governments.

Projected Impact on Employment

The proposed amendment is unlikely to affect total employment.

Effects on the Use and Value of Private Property

The proposed amendment does not affect the use and value of private property. The proposed amendment does not affect real estate development costs.

Adverse Effect on Small Businesses⁵:

The proposed amendment does not adversely affect small businesses.

³ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁴ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.